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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,416	12/30/2003	Thomas B. Haverstock	TBH-00100	7845

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HAVERSTOCK & OWENS LLP  
162 N WOLFE ROAD  
SUNNYVALE, CA 94086

EXAMINER	
ALEXANDER, REGINALD	

ART UNIT	PAPER NUMBER
1761	

MAIL DATE	DELIVERY MODE
09/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/748,416

Applicant(s)

HAVERSTOCK, THOMAS B.

Examiner

Reginald L. Alexander

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-7 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-6 and 11-21 is/are allowed.
- 6) ☒ Claim(s) 7, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claims 7 and 9 are objected to because of the following informalities: In claim 7, the amended subject matter fails to have the proper spacing between it and the subject matter already present (words appear to run on); In claim 9, the claim is dependent upon rejected claim 8. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandin in view of Card.

Sandin discloses a filter press assembly for separating coffee grounds from an infused liquid in a disposable, nestable cup, the cup having a cross-section that varies, the assembly including a plunger for use in the cup.

There is disclosed in Card a filtering device, comprising: a vessel 11 having an opening 13 at a proximal end and a closed distal end 12, wherein the interior of the vessel has a cross-section with a dimension and the dimension varies with longitudinal distance from the opening such that the vessel has a plurality of dimensions; a

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compressible filter assembly 15, comprising a compressible filter element 17 and a compressible support element 20 mounted over the compressible filter element and configured to maintain contact with the interior of the vessel for each of the plurality of dimensions; and a plunger element 16 configured for pushing the compressible filter assembly through the vessel.

It would have been obvious to one skilled in the art to substitute the plunger assembly of Sandin with that taught in Card, in order to ensure a tight fitting of the plunger within the cup during use over the various cross-sections.

In regards to the percentage of change in the pluralities of dimensions, it would have been obvious to one skilled in the art to modify the vessel dimensions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Arriving at applicant's claimed percentage of change would require modifying the size of the vessel and not the overall invention itself. Such a modification is not seen as patentably distinguishing over the prior art.

In regards to the use of the device for separating infusion material from an infused liquid, such is intended use only and provides no structural limitations to the claims. It is apparent that the device of Card could perform such a function. In regards to the vessel being a beverage cup, it is apparent that the vessel of Card could be used for beverages.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandin in view of Card as applied to claim 7 above, and further in view of Levinson.

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Levinson discloses the use of a filter assembly wherein a paper filter is supported between two foam rings 14, 15.

It would have been obvious to one skilled in the art to modify the plunger of Sandin, as modified by Card and provide a paper filter and foam ring arrangement as disclosed in Levinson, in order to provide an alternative material for the plunger.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sandin in view of Card as applied to claim 7 above, and further in view of Monnet.

Monnet discloses the use of a lid having an aperture for the passage of a plunger element which is attached to a filter membrane 5.

It would have been obvious to one skilled in the art to provide the cup of Sandin, as modified by Card, with the lid disclosed in Monnet, in order to prevent liquid from spilling from the vessel.

***Allowable Subject Matter***

Claims 3-6 and 11-21 are allowed.

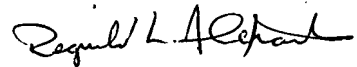
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla  
30 August 2007



Reginald L. Alexander  
Primary Examiner  
Art Unit 1761